

Tentative Rulings for Thursday, August 20, 2015 for Department 4, Judge LaPorte presiding

De Lacerda v Adventist Medical Center et al

Case No. 14 C 0202

Plaintiff has filed a statement of non-opposition to the motion for summary judgment brought by defendant Askok Verma, M. D. Defendant's motion for summary judgment is granted.

Sasser v Hooker et al

Case No. 15 UD 0109

No opposition has been filed. Proper notice of motion was given. Based on the pleadings on file, the motion to strike portions of the answer is granted with leave to amend. The answer may not seek affirmative relief. (CCP 431.30 (b) and (c) [Affirmative relief may not be claimed in the answer]. )The motion is granted as to page 2 lines 10-17, paragraphs 14-16, paragraphs 17-23, and the prayer items 1-5. Plaintiff shall file an answer with the affirmative relief portions of the answer stricken. The first amended answer is due 10 days after service of notice of ruling.

The motion to strike the answer is without prejudice to defendant seeking leave to file a cross-complaint. The answer improperly sought affirmative relief. The cross-complaint was filed 4 days later. (CCP 428.50 ( c) [A party shall obtain leave of court to file any cross-complaint except one filed within the time specified in subdivision (a) or (b). Leave may be granted in the interest of justice at any time during the course of the action].)

The motion to strike the cross-complaint on the basis that it is a sham is denied. The motion to strike the cross- complaint on the grounds that defendant did not seek leave to file the same is granted. Cross-complainant may file a motion for leave to file a cross-complaint which seeks affirmative relief, if facts exist to support a claim for retaliatory eviction/ interference with business contractual relationship.

There are no other tentative rulings. Consistent with California Rule of Court, rule 3.1308 (a)(2), no notice of intent to appear is required. If the non-prevailing party does not appear for hearing, the tentative ruling will become the order of the court. The prevailing party shall prepare an order for the court's signature.